

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALLIANZ LIFE INSURANCE COMPANY OF
NORTH AMERICA, A Minnesota Corporation,

Plaintiff,

vs.

No. 05-CV-0256 JCH/RLP

STEPHEN T. "BUD" RICHARDS and JANE
ANN DAY,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendants' and Counterclaimants' Motion for a Definite Trial Setting and Memorandum in Support Thereof, filed May 4, 2007 [**Doc. No. 189**], and Plaintiff's Expedited Motion to Vacate Certain Trial and Pretrial Deadlines, filed May 18, 2007, [**Doc. No. 190**]. The Court having considered the motions, briefs, and relevant law, and being otherwise fully informed, finds that the motions are well taken in part and will be granted in part.

On April 13, 2007, the Court informed the parties by letter that it had three weeks available for trial on the June 18, 2007, trailing docket, that there were multiple civil cases set on the docket, including cases which are older than this case, and that there were numerous criminal cases expected to be on that docket which would take precedence over the civil cases. The Court also noted that Richards' and Day's counsel Joe Goldberg and Maureen Sanders were unavailable for thirteen of the fifteen days available on the June 18, 2007, docket. The Court explained that cases that could not be accommodated on the June 18, 2007, trial docket would be moved to the next trial docket, which commences on August 20, 2007.


In their Motion for a Definite Trial Setting, Defendant/Counterclaimants Richards and Day ask the Court to vacate the pre-trial deadlines for the June 18, 2007, trial docket, set this matter for a six-day trial on the August 20, 2007, trial docket, and enter a new pre-trial order with deadlines keyed to the August 20, 2007, trial docket. Plaintiff opposes Richards and Day's motion because Plaintiff's co-counsel R. E. Thompson is scheduled for a three-week trial in state court beginning August 20, 2007, and because Richards and Day ask the Court to enter a pre-trial order that does not provide for additional discovery.

In its Expedited Motion to Vacate Certain Trial and Pretrial Deadlines, Plaintiff asks the Court to vacate the trial and pretrial deadlines set for the June 18, 2007, trial docket, with the exception of the June 7, 2007, Call of the Calendar, and to set the Motion to Vacate for an expedited hearing prior to May 25, 2007. Richards and Day oppose this motion because they argue that Plaintiff's requested relief is too limited. Specifically, Richards and Day object to vacating the current pretrial schedule without setting a fixed trial date that would advance this case towards trial.

The Court grants the parties motions to the extent they seek to vacate the pretrial deadlines currently set in this matter, with the exception of the June 7, 2007, Call of the Calendar. The Court denies Richards' and Day's motion to the extent it seeks to establish, at this time, a firm trial setting beginning August 20, 2007, and pretrial deadlines keyed to an August 20, 2007, trial. The Court denies Plaintiff's motion to the extent it seeks an expedited hearing on this matter. The Court will address trial scheduling and other related concerns at the June 7, 2007, Call of the Calendar.

IT IS SO ORDERED.

Dated this 24th day of May 2007.


JUDITH C. HERRERA
UNITED STATES DISTRICT JUDGE